

JUDGE FORREST

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

13 CIV 1535

Mr. Silvester McKanney

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

-against-

Department of the Navy

Jury Trial: ☐ Yes ☒ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

S.D. OF N.Y.

13-cv-1535

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name Mr. Silvester McKanney
Street Address 2266 Andrews Ave. Apt. 1-d
County, City Bronx, Bronx
State & Zip Code New York 10468
Telephone Number home: (347) 963-4319 Cell: (914) 504-2157

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Department of the Navy
 Street Address 2000 Navy Pentagon
 County, City Washington D.C. (District of Columbia)
 State & Zip Code Washington D.C. 20350-2000
 Telephone Number _____

Defendant No. 2 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

N/A

Defendant No. 3 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 4 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions

☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? Freedom of Information Act

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____

Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. Where did the events giving rise to your claim(s) occur? See attached.
- B. What date and approximate time did the events giving rise to your claim(s) occur? See attached

- C. Facts: The file that I am requesting: (my closed or sealed military field service jacket) was created for me to have easy access to the personal and military information there-in. And was to be kept for me for seventy years, and released unto me whenever I requested.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

I began requesting it in 1997 through the VA Regional Offices, until I was finally instructed to request them directly through the Department of the Navy. The DDN then after not releasing it to me instructed me to file a FOIA Lawsuit to force further actions of them to gain access of my records.

I need this file to prove my disability claim and to ascertain personal information that is truly viable to my personal welfare, and I need it ASAP.

IV. Injuries.

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. N/A

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. See attached

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 6 day of March, 2013.

Signature of Plaintiff

Mr. Silvestre Mc Kanney

Mailing Address

2266 - Andrews Ave Apt. 1-d
Bronx, New York 10468

Telephone Number

(347) 963-4319 or (914) 504-2157

Fax Number (if you have one)

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this _____ day of _____, 20____, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Inmate Number

United States District Court For:
(Southern District of New York: NY, NY)

Mr. Silvester McKanney
2266 Andrews Ave. Apt. 1-d
Bronx, NY 10468
PH# (347) 963-4319 cell: (917) 504-2157

Plaintiff,

v.

Department of the Navy

2000 Navy Pentagon
Washington DC 20350-2000

Defendant.

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. 552, to order the production of agency records, concerning (my closed or sealed military field service jacket, also maybe called a missions file.), which defendant has improperly withheld from plaintiff.
2. This court has jurisdiction over this action pursuant to 5 U.S.C. 552(a)(4) (B).
3. Plaintiff, (Mr. Silvester McKanney), is a disabled veteran that was injured while in the Navy, and is the requester of the records which defendant is now withholding. Plaintiff has requested this information for use in an upcoming disability decision ratings review officer meeting which should be taking place within days, and prompt release of the information is essential to prove my disability claim. This file was created to allow me easy access to potions of my sealed FBI file and also all my paperwork pertaining to my approved 100% disability rating. I beseech the court to expedite the handling of this case because as it stands I am living in substandard housing, and my bills are constantly behind due to the special needs mandated by my injuries.

(a)***This file contains all the doctors' exams and diagnoses, of my neck , left shoulder and spinal injuries all of the diagnoses are regrettable the same. They all confirm the fact that I am 100% disabled: and they are both from military hospitals as well VA Hospitals. At least three military exams including the very first one on board ship the same day as the accident states that I am diagnosed 100% disable.

(b)***The file, (closed military field service jacket)' also contains all of the necessary paperwork to start my military disability compensation already filled out and signed. All the forms are filled out and signed except the very last one which authorizes the VA to start

sending out the checks is not signed but is filled out.

(c)***This file is vitally important to prove, not only my disability rating, but also it also shows that I am entitled to back pay all the way back to 1981. Please help me to ascertain this file so that these proofs can be brought to the light as well. Also in this file are personal papers that were taken from my sealed FBI File which would immediately improve living status which currently is quite dismal being that due to my disability I am forced to live in poverty existing only on SSI. The file contains a copy of my trust agreement without which I can't access my trust without legal representation; of which I can't afford being on SSI because I was rendered unable to work after a car accident in 1997 that exasperated the injuries I got in the service to unbearable discomfort levels.

(d)***None of the information in it is considered sensitive to The Department of Defense or The Department of the Navy in any way. And as far as the Federal Government is concerned all information in either my closed FBI File or my sealed military field service jacket is for my eyes only. So please don't allow the nature of how the information is retained to cloud the issue.

4. Defendant (The Department of the Navy) is an agency of the United States and has possession of the documents that plaintiff seeks.
5. By letter dated (Jan. 27, 2012), plaintiff requested access to (my closed or sealed military field service jacket). A copy of this latter is attached as Exhibit 1.
6. By letter dated (March 16, 2012), plaintiff was denied access to the access to the requested information. A copy of this letter is attached as Exhibit 2.
7. By letter dated (April 2, 2012), plaintiff appealed the denial of this request. A copy of this letter is attached as Exhibit 3.
8. By letter dated (May 1, 2012
9.), plaintiff's appeal was denied. A copy of this letter is attached as Exhibit 4.
10. Plaintiff has a right of access to the requested information under 5 U.S.C. 552(a)(3), and there is no legal basis for defendant's denial of such access.

WHEREFORE, plaintiff requests this Court:

- (1) Order defendant to provide access to the requested documents; (my closed or sealed military field service jacket, sometimes called a missions field.)
- (2) Expedite this proceeding as provided for in 28 U.S.C. 1657; I have a sit down meeting with the VA Regional Office Review Representative coming any day now and this information is imperative to prove my claim. Also I am living in substandard housing and the costs of my degenerating condition are constantly eating into my budget ergo keeping me behind in my bills and it is getting to the point of homelessness. I have been chasing this file since 1997 from the point of being unable to work and have been forced to live in my car for about two years and at this point again I am facing homelessness if this information is not released and soon.
- (3) Award plaintiff costs and reasonable attorneys fees in this action, as provided in 5 U.S.C. 552(a)(4)(E); and
- (4) Grant such other and further relief as may deem just and proper.

Respectfully submitted, *Mr. Kanney*
Mr. Silvester *Mr. Kanney*
NAME: Mr. Silvester Mc Kanney

3/6/13

Request ①

Exhibit 1

FOIA Request Letter

1 of 3

Silvester McKanney
Unit; VA - 97 NAS Lemoore, CA
SSI No. 417-88-4058
U.S. Navy DOS; From: 8/78 To: 7/81
Unit or Ship; Squadron VA - 97
Attached to the USS Coral Sea
Unit CO: Commander D. L. Carol
Address: 2266-Andrews Ave. Apt. # 1-d
Bronx, NY 10468
Date: January 27, 2012
Phone #: Home; (347) 944-4620
Cell: (917) 504-2157

SECNAV/CNO FOIA Office
Attn: MS Phyllis Shaw
Chief of Naval Operations (DNS-36)
2000 Navy Pentagon
Washington, DC 20350-2000

Dear:

I've been trying to get some substantiating proof for my disability claim, and a method came to my attention that possibly would solve the problem once and for all. I have been trying to get a copy of my (closed field service jacket) or sealed/closed military record, which was started for me by my CO (Commander D. L. Carol). He was a Korean War Vet with a closed military record of his own. Because I needed a part of my sealed FBI file, {which contains protected witness information of mine, and other personal info.}, in a file that would be more accessible to me. He got permission from the federal government to start this file for me so a portion my sealed FBI files could be in another sealed file. I was told by him at that time that I could have the file declassified whenever I wanted to and just get all the paper out of it. I now want to do just that and have all its' content sent to me. This type file was first initialized during WW I and officially made part of the Military Code of Rules/Regs. about WW II and was used constantly during the Korean Conflict and is now basically used for special service operatives, and military secret service members. Which are described in full detailed in THE Military Code of Rules and Regulations: the edition that was issued about the start of WWII. And in several editions up to about two editions before the edition used in 1982 in which it was only briefly mentioned.

I also requested the VA to find the form that I would need to request a viewing of my (closed or sealed

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Exhibit 1

FOIA Request Letter

(2 of 3)

military field service jacket). When I requested the VA to find my (closed military field service jacket), they said that they found it in Washington, DC but the VA itself could not get the file because it is classified secret. And only the veteran himself can request this file, the request form used is very short and can only be filed at a Veteran Administration Regional Office. The type form is described in all the other requests for this record. Once the file is requested it is delivered via a military courier whom waits until I am through reviewing the file and then return it to its storage facility.

I had submitted a request awhile back and was told a two hundred and fifty dollar fee was required. At that point in time I didn't have the money and was trying to resolve the matter another way. My disability claim process has become stagnated to the point of just waiting too see. My situation has again become desperate and now I need to resume the process of getting my closed or sealed military field service jacket declassified and the contents sent to me via priority one day registered mail. I now have the fee required and would like to get this resolve immediately.

This file as fore-mentioned contains only classified information for my eyes only from my sealed FBI file, other private personal papers, a copy of my trust agreement, some stocks and bonds of mine, and all the completed forms of my already designated 100% disability claim. These forms and all the doctors reports from Naval Medical Facilities and three or four VA Hospitals' medical determinations. All the medical determinations both Naval and VA confirm the fact that I have a 100% disability. I need this file in its entirety to be sent to me ASAP!!!!!!!

*****This file contains all the doctors' exams and diagnoses, as well as other personal papers, all of the diagnoses are regrettable the same. They all confirm the fact that I am 100% disabled, and they are both from military hospitals as well VA Hospitals. At least three military exams including the very first one on board ship the same day as the accident, states that I was diagnosed 100% disable. The ship's doctor did the exam twice using the more accurate cat-scan to come to the same conclusion (100% disable). The other two military facilities were the medical center at NAS Lemoore, and the military hospital at Alameda Naval Hospital at the San Francisco Naval Base. There are at least two VA Hospitals exams one at the VA Regional Medical Center in Los Angeles, CA, and another at the VA Regional Medical Center in Indpls. IN.

*****The file, (closed military field service jacket), also contains all of the necessary paperwork to start my military disability compensation already filled out and signed. All the forms filled out and signed except the very last one which authorizes the VA to start sending out the checks is not signed but is filled out. My CO wanted to make sure that I got my disability without any trouble, so he had me to fill out all of my 100% disability claim papers and started my closed or sealed file.

*****This file is vitally important to prove, not only my disability rating, but also it also shows that I am entitled to back pay all the way back to 1981. Please help me to ascertain this file so that these proofs can be brought to light as well. It is not a congressionally closed file even though it is classified secret. This type file was designed for the vet to have access to information that is otherwise too sensitive to be openly

Exhibit 1

3 of 3

FOIA Request Letter

stated in his regular records. It also contains information out of my sealed FBI records, concerning the protected witness program. Please help me retrieve this file for it truly holds information that contains and pertains to the relevance of my disability claim.

***** I would like to begin whatever procedures to declassify this file immediately, and get its' contents sent to me by one day priority registered mail. I am willing to pay any processing fees and shipment costs that it would take to get these materials sent me by one day priority mail. All the contents of this file should be included in the package to be sent to me.

SIGNED: Mr. Silvester McCanney

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DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS

2000 NAVY PENTAGON

WASHINGTON, DC 20350-2000

Reply ①

Exhibit 2

5720

Ser DNS-36CM/12U108655

16 Mar 12

Mr. Silvester McKanney
2266 Andrews Avenue Apt 1-D
Bronx, NY 10468

1 of 1

Dear Mr. McKanney:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT CASE DON2012F020603

Thank you for your Freedom of Information Act (FOIA) request dated January 27, 2012. Your request was received in our office on February 6, 2012.

We contacted the Director, National Personnel Records Center (NPRC) FOIA Office and they are processing this request. NPRC will respond directly to you concerning your FOIA request that you submitted to this office.

For your information, the NPRC FOIA Office contact information is the following:

Director
National Personnel Records Center
Military Personnel Records Branch
9700 Page Avenue
St. Louis, MO 63132-5100

Questions regarding the action this office has taken during the initial processing of your request may be directed to our FOIA service center at (202) 685-0412. For questions regarding the current status of your request, please contact a FOIA Coordinator at NPRC directly at (314) 801-0800.

Sincerely,

M.P. Shaw

M. Phyllis Shaw
Senior PA/FOIA Program Analyst
Team Chief & DON FOIA Requester
Service Center
OPNAV/SECNAV Privacy/Freedom of
Information Policy Office

FOIA APPEAL

Exhibit 3

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Silvester McKanney
2266 – Andrews Ave. Apt. 1-d
Bronx, NY 10468
~~July 9, 2012~~ April 23, 2012
Phone: # (347) 963-4319
Cell: # (917) 504-2157

Kind Sir:

I am trying again to locate my closed or sealed military field service jacket, and this time to have it declassified and its' content sent to me. As mentioned in the attached original FOIA request letter it was initiated by my then CO (Commander D. L. Carol) of VA-97 in late 1980 or around July of 1981. Due to the fact that I was one of the very first people to be in what is now called the protected witness program I have a sealed FBI file. The case in which I was involved pertains to the criminal intents and attempts to assassinate the Chairman of the U.S. Senate Ways and Means Committee, and members of his family in 1962 or 1963. Senator Jonathon Walthrope was one of the wealthiest businessmen in this country.

We met at a target shooting contest held at his country club, there he was thoroughly impressed with my talents and eventually became my manager. We took the club to the tri-state championships and from there the nationals onto the internationals and won them all. It was during this period of time that I witnessed several attempts upon his life, and helped locate his kidnapped granddaughter, Tiffanie Walthrope, which led to her rescue. Due to the fact that Senator Walthrope was my manager I spent a lot of time as a guess in his home and therefore witnessed the kidnappers of his daughter-in-law upon another occasion. His life was threatened quite a few times and his family was constantly at risk, yet through perseverance and justice we all made it. My testimony helped put away several major mafia bosses and quite a few mob henchmen. In 1985 when some of them was released from prison, all records concerning this matter

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Exhibit 3

FOIA APPEAL

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of mine including my sealed military field service jacket was required to be housed in their respective departments in Washington D. C. for safe keeping.

Also during our international travels we met with many heads of states, and as a businessman he introduced me to investing in not only this country's stocks but also in foreign markets as well. We were the very first American Investors in O.P.E.C. Oil as well as other major stocks in the Middle East. For this reason my where about and identity was considered to be vitally important to these foreign nations, because international laws as well as national laws applied to these investments. Some of the foreign countries went to great lengths to make sure that I could be easily reached or contacted if needed, and this to was enclosed as part of my closed FBI file because of the need to maintain peace in the Middle East which at that time was fragile. Some of these personal papers from my sealed FBI File was also copied into my sealed or closed military field service jacket, for easy access for me.

I think the sealed military field service jacket is classified as top secret or secret and was to be kept for me 70 years. I think that it might also be referred to as a mission file or a command file. It was never kept with my personnel file, but was an attachment to it and kept separate. It was located by the DON about two to five years ago, and I am sorry I don't remember where it was kept. This file is not closed congressionally, but has always been designed for me to have ready access to it by going to any VA Regional Office and requesting it with the proper form. Which became a big problem because I can't find anyone within the VA System who knows which form to use to request this type of file.

None of the information in it is considered sensitive to The Department of Defense or The Department of the Navy in any way. And as far as the Federal Government is concerned all information in either my closed FBI File or my sealed military field service jacket is for my eyes only. So please don't allow the nature of how the information is retained to cloud the issue.

SIGNED:

Silvester McKanney

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Exhibit 3

FOIA APPEAL

Silvester McKanney
Unit; VA - 97 NAS Lemoore, CA
SSI No. 417-88-4058
U.S. Navy DOS; From: 8/78 To: 7/81
Unit or Ship; Squadron VA - 97
Attached to the USS Coral Sea
Unit CO: Commander D. L. Carol
Address: 2266-Andrews Ave. Apt. # 1-d
Bronx, NY 10468
Date: ~~July 9, 2012~~ April 2, 2012
Phone #: Home; (347) 944-4620
Cell: (917) 504-2157

TO: FOIA OJAG

The Office of the Judge Advocate General
1322 Patterson Ave., Suite 3000
Washington Navy Yard, DC 20374-5066

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Dear:

I've been trying to get some substantiating proof for my disability claim, and a method came to my attention that possibly would solve the problem once and for all. I have been trying to get a copy of my (closed field service jacket) or sealed/closed military record, which was started for me by my CO (Commander D. L. Carol). He was a Korean War Vet with a closed military record of his own. Because I needed a part of my sealed FBI file, {which contains protected witness information of mine, and other personal info.}, in a file that would be more accessible to me. He got permission from the federal government to start this file for me so a portion my sealed FBI files could be in another sealed file. I was told by him at that time that I could have the file declassified whenever I wanted to and just get all the paper out of it. I now want to do just that and have all its' content sent to me. This type file was first initialized during WW I and officially made part of the Military Code of Rules/Regs. about WW II and was used constantly during the Korean Conflict and is now basically used for special service operatives, and military secret service members. Which are described in full detailed in THE Military Code of Rules and Regulations: the edition that was issued about the start of WWII. And in several editions up to about two editions before the edition used in 1982 in which it was only briefly mentioned.

I also requested the VA to find the form that I would need to request a viewing of my (closed or sealed military field service jacket). When I requested the VA to find my (closed military field service jacket), they said that they found it in Washington, DC but the VA itself could not get the file because it is classified secret. And only the veteran himself can request this file, the request form used is very short and can only be filed at a Veteran Administration Regional Office. The type form is described in all the other requests for this record.

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Exhibit 3

FOIA APPEAL

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Once the file is requested it is delivered via a military courier whom waits until I am through reviewing the file and then return it to its storage facility.

I had submitted a request awhile back and was told a two hundred and fifty dollar fee was required. At that point in time I didn't have the money and was trying to resolve the matter another way. My disability claim process has become stagnated to the point of just waiting to see. My situation has again become desperate and now I need to resume the process of getting my closed or sealed military field service jacket declassified and the contents sent to me via priority one day registered mail. I now have the fee required and would like to get this resolve immediately.

This file as fore-mentioned contains only classified information for my eyes only from my sealed FBI file, other private personal papers, a copy of my trust agreement, some stocks and bonds of mine, and all the completed forms of my already designated 100% disability claim. These forms and all the doctors reports from Naval Medical Facilities and three or four VA Hospitals' medical determinations. All the medical determinations both Naval and VA confirm the fact that I have a 100% disability. I need this file in its entirety to be sent to me ASAP!!!!!!!

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Exhibit 3

FOIA APPEAL

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SIGNED: Mr. Silvester McKanney

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Request 2

Exhibit 3

FOIA Request Letter

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Silvester McKanney
Unit; VA - 97 NAS Lemoore, CA
SSI No. 417-88-4058
U.S. Navy DOS; From: 8/78 To: 7/81
Unit or Ship; Squadron VA - 97
Attached to the USS Coral Sea
Unit CO: Commander D. L. Carol
Address: 2266-Andrews Ave. Apt. # 1-d
Bronx, NY 10468
Date: April 4, 2012
Phone #: Home; (347) 944-4620
Cell: (917) 504-2157

TO: FOIA Coordinator

Re:
SECNAV/CNO FOIA Office
Attn: MS Phyllis Shaw
Chief of Naval Operations (DNS-36)
2000 Navy Pentagon
Washington, DC 20350-2000

Dear:

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Exhibit 3

FOIA Request Letter

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*****This file contains all the doctors' exams and diagnoses, as well as other personal papers, all of the diagnoses are regrettable the same. They all confirm the fact that I am 100% disabled, and they are both from military hospitals as well VA Hospitals. At least three military exams including the very first one on board ship the same day as the accident, states that I was diagnosed 100% disabled. The ship's doctor did the exam twice using the more accurate cat-scan to come to the same conclusion (100% disabled). The other two military facilities were the medical center at NAS Le moore, and the military hospital at Alameda Naval Hospital at the San Francisco Naval Base. There are at least two VA Hospitals exams one at the VA Regional Medical Center in Los Angeles, CA, and another at the VA Regional Medical Center in Indianapolis, IN.

*****The file, (closed military field service jacket), also contains all of the necessary paperwork to start my military disability compensation already filled out and signed. All the forms filled out and signed except the very last one which authorizes the VA to start sending out the checks is not signed but is filled out. My CO wanted to make sure that I got my disability without any trouble, so he had me to fill out all of my 100% disability claim papers and started my closed or sealed file.

*****This file is vitally important to prove, not only my disability rating, but also it also shows that I am entitled to back pay all the way back to 1981. Please help me to ascertain this file so that these proofs can be brought to light as well. It is not a congressionally closed file even though it is classified secret. This type file was designed for the vet to have access to information that is otherwise too sensitive to be openly

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Exhibit 3

FOIA Request Letter

8 29

stated in his regular records. It also contains information out of my sealed FBI records, concerning the protected witness program. Please help me retrieve this file for it truly holds information that contains and pertains to the relevance of my disability claim.

***** I would like to begin whatever procedures to declassify this file immediately, and get its' contents sent to me by one day priority registered mail. I am willing to pay any processing fees and shipment costs that it would take to get these materials sent me by one day priority mail. All the contents of this file should be included in the package to be sent to me.

SIGNED: Mr. Silvester McKanney

Silvester McKanney

1/27/2012

Silvester McKanney
3/20/12

Silvester McKanney
4/4/12

Scott A. Tromp

1/27/12

SCOTT A. TROMP
Notary Public, State of New York
No. 01TR6169631
Qualified in Bronx County
Commission Expires June 25, 2015

Exhibit 3

Silvester McKanney
2266 – Andrews Ave. Apt. 1-d
Bronx, NY 10468
April 6, 2012
Phone: # (347) 963-4319
Cell: # (917) 504-2157

9 of 9

Kind Sir:

I am trying again to locate my closed or sealed military field service jacket, and this time to have it declassified and its' content sent to me. As mentioned in the attached original FOIA request letter it was initiated by my then CO (Commander D. L. Carol) of VA-97 in late 1980 or the first part of 1981. Due to the fact that I was one of the very first people to be in what is now called the protected witness program I have a sealed FBI file. The case in which I was involved pertains to the criminal intents and attempts to assassinate the Chairman of the U.S. Senate Ways and Means Committee, and members of his family in 1962 or 1963. Senator Jonathon Walthrope was one of the wealthiest businessmen in this country.

We met at a target shooting contest held at his country club, there he was thoroughly impressed with my talents and eventually became my manager. We took the club to the tri-state championships, and from there the nationals onto the internationals and won them all. It was during this period of time that I witnessed several attempts upon his life. My testimony helped put away several major mafia bosses and quite a few mob henchmen. In 1985 when some of them was released from prison, all records concerning this matter of mine including my sealed military field service jacket was required to be housed in their respective departments in Washington D. C. for safe keeping.

I think the sealed military field service jacket is classified as top secret or secret and was to be kept for me 70 years. I think that it might also be referred to as a mission file or a command file. It was never kept with my personnel file, but was an attachment to it and kept separate. It was located by the DON about two to five years ago, and I sorry I don't remember where it was kept.

SIGNED:

Silvester McKanney
Silvester McKanney
4/6/12

9

Ap Dinal

(2)



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE
SUITE 3000
WASHINGTON NAVY YARD DC 20374

Exhibit 4

103

IN REPLY REFER TO:

5720

F12101

Ser 14/256

May 1, 2012

Mr. Silvester McKanney
2266 Andrews Avenue Apt 1-D
Bronx, NY 10468

Dear Mr. McKanney:

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) APPEAL, F12101

This responds to your letter dated April 2, 2012. Your letter was forwarded to this office by the Office of General Counsel on April 2, 2012. In your letter, you state that you are trying to locate your "field service jacket and have it declassified and its' content sent to me." On March 16, 2012, The Department of the Navy, Chief of Naval Operations (DNS-36) responded to your FOIA request dated January 27, 2012, in which you requested this information. I am treating your letter to this office as an appeal of the DNS-36 letter to you dated March 16, 2012. Specifically, I am treating your letter as a challenge to the adequacy of the search conducted by DNS-36.

Your appeal is a request for a final determination under the FOIA. For the following reasons, I deny your appeal.

Upon receipt of your appeal, we contacted DNS-36 regarding their search procedures undertaken to locate responsive documents. We confirmed the adequacy of that department's search procedures. The adequacy of an agency's search under the FOIA is determined by a test of reasonableness, which may vary from case to case. An agency must undertake a search that is reasonably calculated to uncover all relevant documents. Furthermore, the mere speculation that requested documents exist does not undermine the finding that the agency conducted a reasonable search. Under the circumstances, I find that an adequate search was conducted for responsive records.

In addition to contacting several components within the Department of the Navy, DNS-36 determined that the National Personnel Records Center (NPRC) may have copies of your medical and service records. They referred your FOIA request to NPRC.

(1)

Exhibit 4

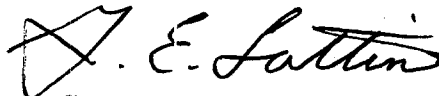
2 of 3

5720
F12101
Ser 14/256
May 1, 2012

and NPRC responded to you in a letter dated March 28, 2012. Please note that I do not have the authority to adjudicate a decision made by NPRC as my appellate authority is limited to agencies within the Department of the Navy.

As the Secretary of the Navy's designee, I am responsible for this denial of your appeal. You may seek judicial review. Should you have any questions or concerns, please contact Major James Valentine at 202-685-5476 or james.d.valentine@navy.mil.

Sincerely,



G. E. LATTIN

Director

General Litigation Division

Copy to:

DNS-36

didn't

Grant

Federal District Court D.C.
FOIA Lawsuit

(2)

Request



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

Exhibit 4

5720

Ser DNS-36CM/12U109455

26 June 12

3 of 3

Silvester Mckanney
2266 Andrews Avenue Apt 1-d
Bronx, NY 10468

Dear Mr. Mckanney:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT CASE DON2012F040972

This is in further response to your Freedom of Information Act (FOIA) request of April 4, 2012. Your request was received in our office on April 16, 2012.

Per telephone conversation on June 11, 2012, you spoke with staff member Crystal Manley and informed her that you spoke with Alicie Callaham of the Office of Judge Advocate General, General Litigation Division about your request. Our office followed up with the Office of Judge Advocate General, General Litigation Division and was informed that they gave a final decision of "No Records". Office of Judge Advocate General, General Litigation Division informed you of the decision and steps to take if you were not satisfied with the decision on May 1, 2012.

Therefore, we are closing your file with the recommendation that you follow the steps provided by the Office of Judge Advocate General, General Litigation Division in regards to the final determination made on your request.

Questions regarding the action that our office has taken during the initial processing of your request may be directed to our FOIA service center at (202) 685-0412.

Sincerely,

M. P. Shaw

M. Phyllis Shaw
Senior PA/FOIA Program Analyst
Team Chief & DON FOIA Requester
Service Center
OPNAV/SECNAV Privacy/Freedom of
Information Policy Office

(3)